

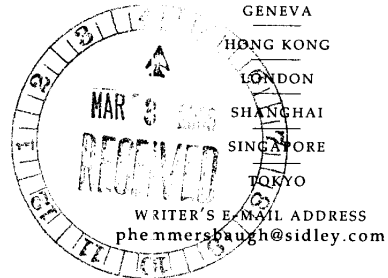
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March 3, 2005

By Hand Delivery

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

MAR - 8 2005

Part of
Public Record

Re: STB Docket No. 42069, Duke Energy Corporation v. Norfolk Southern
Railway Company; STB Docket No. 42070, Duke Energy Corporation v.
CSX Transportation, Inc.; STB Docket No. 42072, Carolina Power &
Light Company v. Norfolk Southern Railway Company

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceedings are a signed original and ten (10) copies of the Joint Motion of Complainants Duke Energy Corporation and Carolina Power & Light Company, and Defendants Norfolk Southern Railway Company and CSXT, Inc. for Discovery Motions Schedule. Additionally, this filing includes a diskette containing an electronic version of the Motion.

Please acknowledge receipt of this submission for filing by date-stamping the enclosed duplicate paper copy and returning it to our messenger. If you have any questions concerning this filing, please contact the undersigned.

Thank you for your attention to this matter.

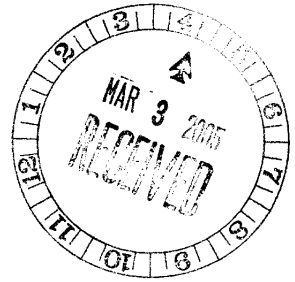
Sincerely,

Paul A. Hemmersbaugh

Enclosures

cc: Counsel for Complainant (w/encls.)

BEFORE THE
SURFACE TRANSPORTATION BOARD



DUKE ENERGY CORP.,

Complainant,

v.

NORFOLK SOUTHERN RAILWAY COMPANY,

Defendant.

Docket No. 42069 -213468

DUKE ENERGY CORP.,

Complainant,

v.

CSX TRANSPORTATION, INC.,

Defendant.

Docket No. 42070 -213469

ENTERED
Office of Proceedings

MAR - 2 2005

Part of
Public Record

CAROLINA POWER & LIGHT COMPANY,

Complainant,

v.

NORFOLK SOUTHERN RAILWAY COMPANY,

Defendant.

Docket No. 42072 -213470

JOINT MOTION OF COMPLAINANTS DUKE ENERGY CORP. AND
CAROLINA POWER & LIGHT CO., AND DEFENDANTS NORFOLK SOUTHERN
RAILWAY CO. AND CSXT, INC. FOR DISCOVERY MOTIONS SCHEDULE

**JOINT MOTION OF COMPLAINANTS DUKE ENERGY CORP. AND
CAROLINA POWER & LIGHT CO., AND DEFENDANTS NORFOLK SOUTHERN
RAILWAY CO. AND CSXT, INC. FOR DISCOVERY MOTIONS SCHEDULE**

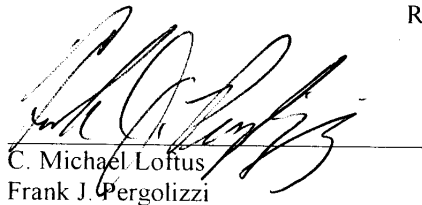
Complainants Duke Energy Corporation and Carolina Power & Light Company, and Defendants Norfolk Southern Railway Company and CSX Transportation, Inc., hereby jointly move the Board to issue a schedule for motions to compel production with respect to disputes arising in connection with discovery in three pending cases, *Duke Energy Corp. v. Norfolk Southern Railway Co.*, STB Doc. No. 42069; *Duke Energy Corp. v. CSX Transportation, Inc.*, STB Doc. No. 42070; and *Carolina Power & Light Co. v. Norfolk Southern Railway Co.*, STB Doc. No. 42072. These cases are not consolidated, and the parties do not seek consolidation. They make this joint submission here solely for purposes of convenience with respect to the resolution of certain discovery disputes.

Counsel for the parties in these cases have met and conferred to attempt to resolve their discovery disputes, and have participated in a STB staff-supervised discovery conference regarding those disputes. The parties believe the remaining issues are ripe for presentation to the Board in the form of motions to compel discovery. To minimize the burden on the parties and on the Board, the parties have agreed to a single proposed schedule for motions to compel discovery, reply memoranda in opposition to motions to compel, and a conference regarding such motions.

The parties request that motions to compel discovery in Docket Nos. 42069, 42070, and 42072 be filed on or before **March 11, 2005**. The parties further propose that Reply memoranda in opposition to such motions to compel be filed on or before **March 21, 2005**. Finally, the

parties propose that a conference regarding the motions to compel and opposition thereto be held on **March 29, 2005.**

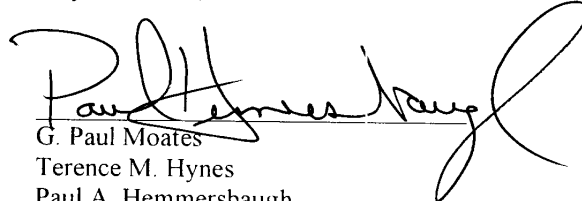
Respectfully submitted,



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March 3, 2005

By Hand

Mr. David M. Konschnik
Director
Office of Proceedings
Surface Transportation Board
1925 K Street, N.W., Room 626
Washington, D.C. 20423

Re: Carolina Power & Light v. Norfolk Southern Railway Co., Doc. No. 42072

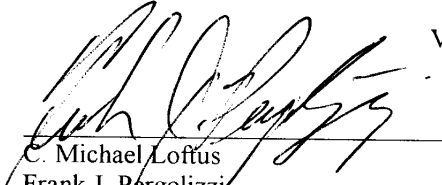
Dear Mr. Konschnik:

We write on behalf of Complainant Carolina Power & Light Company ("CP&L") and Defendant Norfolk Southern Railway Company ("NS") concerning the staff-supervised discovery conference in connection with the above-captioned proceeding (Doc. No. 42072), scheduled for Monday, March 7, 2005. As you are aware, the parties participated in a similar discovery conference on March 2, 2005, concerning two cases brought by Duke Energy Corporation, against NS and CSX Transportation, respectively (Doc. Nos. 42069 & 42070).

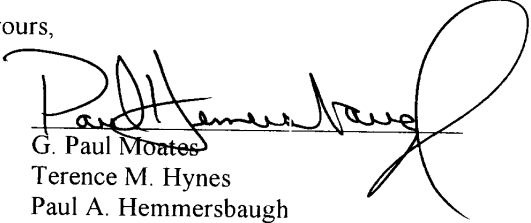
The discovery issues in the current phase of this proceeding are essentially identical to those in *Duke Energy Corp. v. Norfolk Southern Co.*, Doc. No. 42069. Based on the parties' review of the discovery requests and responses served in this case and their discussions, they have determined that a staff discovery conference in this case likely would not resolve any additional issues beyond those resolved in the March 2 conference. Therefore, the parties jointly request that the Board cancel the March 7 conference in Doc. No. 42072.

If you have questions, or wish to discuss this letter, please contact one of the undersigned.

Very truly yours,



C. Michael Loftus
Frank J. Pergolizzi
Andrews B. Kolesar III



G. Paul Montee
Terence M. Hynes
Paul A. Hemmersbaugh

*Counsel to Duke Energy Corp. and Carolina
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*Counsel to CSXT, Inc. and Norfolk
Southern Railway Co.*